



DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS-2014-0052]

Privacy Act of 1974; Department of Homeland Security/United States Coast Guard - 008

United States Coast Guard Courts Martial Case Files System of Records

AGENCY: Department of Homeland Security, Privacy Office.

ACTION: Notice of Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to update and reissue a current Department of Homeland Security (DHS) system of records titled, “Department of Homeland Security/United States Coast Guard United States Coast Guard Courts Martial Case Files System of Records.” This system of records allows the Department of Homeland Security/United States Coast Guard (USCG) to collect and maintain records regarding military justice administration and documentation of DHS/USCG court martial. As a result of the biennial review of this system, United States Coast Guard is updating this system of records notice to include: (1) a new routine use; (2) an updated routine use; (3) updated storage; and (4) updated system manager and address category. Additionally, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice. This updated system will be included in the Department of Homeland Security’s inventory of record systems. The Privacy Act exemptions for this system remain unchanged.

DATES: Submit comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. This updated system will be effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by docket number DHS-2014-0052 by one of the following methods:

- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Fax: 202-343-4010.
- Mail: Karen L. Neuman, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, D.C. 20528.

INSTRUCTIONS: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

DOCKET: For access to the docket to read background documents or comments received, please visit <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Marilyn Scott-Perez (202) 475-3515, Privacy Officer, Commandant (CG-61), United States Coast Guard, Mail Stop 7710, Washington, D.C. 20593. For privacy questions, please contact: Karen L. Neuman, (202) 343-1717, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, D.C. 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) United States Coast Guard (USCG) proposes to update and reissue a current DHS system of records titled, “DHS/USCG -008 United States Coast Guard Courts Martial Case File System of Records.” The DHS/USCG-008 United States Coast Guard Courts Martial Case Files System of Records will allow the Department of Homeland Security/United States Coast Guard to collect and maintain records regarding military justice administration and documentation of DHS/USCG courts martial. As a result of a biennial review of the system, this notice includes the following updates: (1) a new routine use that permits DHS to share information with the news media and the public in certain situations; (2) routine use C has been updated to note that records will be provided to General Services Administration; (3) storage has been updated to remove CD-ROM as a storage method; and (4) system manager and address has been updated to reflect a new system manager and mail stop. Additionally, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice.

Consistent with DHS’s information-sharing mission, information stored in the DHS/USCG-008 United States Coast Guard Courts Martial Case Files System of Records may be shared with other DHS components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, information may be shared with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies

consistent with the routine uses set forth in this system of records notice. This updated system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which federal government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a "system of records." A "system of records" is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals when systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors.

Below is the description of the DHS/USCG-008 United States Coast Guard Courts Martial Case Files System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

System of Records

Department of Homeland Security (DHS)/USCG –008

System name:

DHS/USCG-008 United States Coast Guard Courts Martial Case Files

Security classification:

Unclassified

System location:

Records are maintained at the United States Coast Guard Headquarters in Washington, D.C., and in field offices. Case Matter Management Tracking System (CMMT) is the information technology (IT) system in which records associated with this function are maintained.

Categories of individuals covered by the system:

Categories of individuals covered by this system include all USCG active duty, reserve, and retired active duty and retired reserve military personnel and other individuals who are tried by, or involved with, courts martial.

Categories of records in the system:

Categories of records in this system include:

- Individual's name;
- Social Security number;
- Employee identification number;
- Date of birth;
- Addresses;
- E-mail address;
- Telephone numbers;
- Job-related information including: Job title, rank, duty station, supervisor's name and telephone number; and

- Records of trial (contents are in accordance with Article 54 of the Uniform Code of Military Justice and Rule for Court Martial 1103, which includes charge sheet, exhibits, transcript of trial, sentencing report, arguments, and various other documents).

Authority for maintenance of the system:

Departmental Regulations 5 U.S.C. 301; the Federal Records Act, 44 U.S.C. 3101; 14 U.S.C. 93(e), 632; 10 U.S.C. 815; 10 U.S.C. 865; Executive Order 11835; DHS Delegation 0170.1.

Purpose(s):

The purpose of this system is to document courts martial case files relating to all USCG active duty, reserve, and retired active duty and retired reserve military personnel and other individuals who are tried by, or involved with, courts martial.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Courts martial records reflect criminal proceedings ordinarily open to the public; therefore, they are normally releasable to the public pursuant to the Freedom of Information Act (FOIA). In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including Offices of the U.S. Attorneys, other federal agencies conducting litigation, or in proceedings before any court,

adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;
2. Any employee or former employee of DHS in his/her official capacity;
3. Any employee or former employee of DHS in his/her individual capacity

when DOJ or DHS has agreed to represent the employee; or

4. The U.S. or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;
2. DHS has determined that as a result of the suspected or confirmed compromise, there is a risk of identity theft or fraud, harm to economic or property interests, harm to an individual, or harm to the security or integrity of this system or other

systems or programs (whether maintained by DHS or another agency or entity) that rely upon the compromised information; and

3. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To an appropriate federal, state, local, tribal, foreign, or international agency, if the information is relevant and necessary to a requesting agency's decision concerning the hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit, or if the information is relevant and necessary to

a DHS decision concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit and when disclosure is appropriate to the proper performance of the official duties of the person making the request.

I. To provide statistical data concerning the number of proceedings held, units holding proceedings, offenses committed, punishments imposed, and background data of individuals concerned.

J. To the Veterans Administration (VA) to assist USCG in determining the individual's entitlement to benefits administered by the VA.

K. To the confinement facility, if confinement is adjudged, and the confinement facility is not a USCG facility.

L. To victims and witnesses of a crime for purposes of providing information, consistent with the requirements of the Victim and Witness Assistance Program, regarding the investigation and disposition of an offense pursuant to USCG Military Justice Manual, Article 4.B.1.d and subject to any restrictions provided by the Victim and Witness Protection Act of 1982 (Pub. L. 97-291).

M. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information or when disclosure is necessary to preserve confidence in the integrity of DHS or is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent it is determined that

release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Disclosure to consumer reporting agencies:

None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

USCG stores records in this system electronically or on paper in secure facilities in a locked drawer behind a locked door. The records may be stored on magnetic disc, tape, or digital media.

Retrievability:

USCG retrieves records alphabetically by the name of the individual.

Safeguards:

USCG safeguards records in this system in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. DHS imposes strict controls to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

Retention and disposal:

All General Courts Martial and Special Courts Martial records involving Bad Conduct Discharge are permanent. Transfer to Federal Records Center (FRC) 2 years

after date of final action. Transfer to NARA 10 years after final action. (AUTH: NC1-26-76-2, Item 384a). Special Courts Martial other than those involving Bad Conduct Discharges are temporary. Transfer to FRC 2 years after date of final action. Destroy 10 years after date of final action. (AUTH: NC1-26-76-2, Item 384b). Summary Courts Martial convened after 5 May 1950 are Temporary. Transfer to FRC 2 years after date of final action. Destroy 10 years after date of final action. (AUTH: NC1-26-76-2, Item 384c(1)).

System Manager and address:

Commandant (CG-0946), United States Coast Guard, Mail Stop 7213,
Washington, D.C. 20593-0001.

Notification procedure:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the Commandant (CG-611), United States Coast Guard, Mail Stop 7710, Washington, D.C. 20593. If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, 245 Murray Drive, S.W., Building 410, STOP-0655, Washington, D.C. 20528.

When seeking records about yourself from this system of records or any other Departmental system of records, your request must conform with the Privacy Act regulations set forth in 6 C.F.R. Part 5. You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must

sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, <http://www.dhs.gov/foia> or 1-866-431-0486. In addition, you should:

- Explain why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records; and

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without the above information, the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

Record access procedures:

See “Notification procedure” above.

Contesting record procedures:

See “Notification procedure” above.

Record source categories:

Records are obtained from USCG investigating officers, military, and civilian personnel. Individual service records from proceedings conducted. Trial proceedings and subsequent statutory reviews--Court of Military Review, Court of Appeals for the Armed Services, and Chief Counsel of the USCG.

Exemptions claimed for the system:

Pursuant to exemption 5 U.S.C. 552a(j)(2) of the Privacy Act, portions of this system are exempt from 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), and (e)(8); (f); and (g). Pursuant to 5 U.S.C. 552a(k)(1) and (k)(2), this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a (c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f).

Dated: October 17, 2014.

Karen L. Neuman,
Chief Privacy Officer,
Department of Homeland Security.

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